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Lessons from the Proposed Merger of Onekama Village with Onekama Township

JANUARY 2013

REPORT 381

LESSONS FROM THE PROPOSED MERGER OF ONEKAMA VILLAGE WITH ONEKAMA TOWNSHIP

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LESSONS FROM THE PROPOSED MERGER OF ONEKAMA VILLAGE WITH ONEKAMA TOWNSHIP

Summary

In 2012, the Onekama community in Manistee County became the first village and township to use the provisions for a disincorporation commission provided in the General Law Village Act. While the efforts of the commission did not lead to voter approval in August, the state can learn from Onekama's experience to improve the process for future efforts to consolidate local governments.

In 1998, the General Law Village Act was amended to provide for an orderly process for villages contemplating disincorporation. As an alternative to taking the question of disincorporation directly to the electorate, a village board of trustees could elect to create a disincorporation commission. That entity would be comprised of equal representation from the village and the township(s) in which the village is located. The law establishes 14 subjects that the commission must address to plan for changes in operations in the event the village is disincorporated. These subjects include: the repayment of indebtedness; the disposition of the village's real and personal property, the transfer or termination of village employees; and the fiscal impact that disincorporation would have on the township and the village residents. The commission may opt to address additional subjects.

In August 2011, petitions were submitted calling for a vote on the disincorporation of the Village of Onekama, a village of 411 people in 2010 that resides on the northern shore of Portage Lake. The Village Board of Trustees opted to convene a disincorporation commission, which met from January to March of 2012. The following are some of the highlights from the

commission's plan:

- The commission plan expected that the five mills currently levied by the village would be eliminated without the immediate need for replacement revenues.
- Village streets would transfer into the jurisdiction of the Manistee County Road Commission with special provisions for snow removal in the village.
- Stewardship of the sewer system would transfer to Onekama Township without expansion to new properties. The existing indebtedness related to the sewer system would continue to be paid only by those connected to the sewer system.
- Other Village real and personal assets would be transferred to the Township, either for the continued provision of services or to be sold with the revenues funding future service provision.
- The plan provided that the fund balances transferred from the Village to the Township and revenues from assets sales should be used only for the maintenance of assets and the provision of services in the geographic area that constituted the Village.
- Finally, the Village worked with the commission to identify ordinances that pertained directly to protecting the welfare of village residents and provided that the township should adopt those ordinances if the village was disincorporated.

Recommendations to Improve Process of Local Government Consolidation

As the first village and township to consider the costs and benefits of village disincorporation under the 1998 provisions added to the General Law Village Act, the lessons of Onekama's experience provide for a number of recommendations that would improve the process for the next community to travel down this path. Based on the experience working with the Onekama disincorporation commission, CRC makes the follow-

ing recommendations to state law:

Require Commission for All Mergers. Michigan's laws should be amended to create stand alone provisions that require any proposed mergers, consolidations, disincorporations, or blending of whole units of government to go through a commission process. This should apply not only for the disincorporation of vil-

lages, but also for the merger of townships, when a city and township consider consolidation, when two cities consider merging into a new city, and in any other circumstance of this nature.

Expand Membership of Commissions. It is recommended that the membership of the commission be expanded from three to four members (or from 9 to 12 members if the village resides in two townships), requiring that at least one of the four representatives is an elected official of the village or each township that the village overlaps.

State Technical and Financial Support. It is recommended that the state maintains a policy of providing financial support for local governments willing to consider the difficult political questions of consolidation.

Time Allotted. It is recommended that the time GLVA be amended to allow a vote to be scheduled up to two years after the certification of the petitions to allow sufficient time for a thorough and well produced plan to be prepared.

Provide Contingents for Role of Village Clerk. The law should specifically provide for a deputy clerk or other proxy to serve this role to remove future contention over whether this is proper.

The Petition Process

The issues raised about the petition process focused on the requisite percent of the number of eligible voters in the village required to sign petitions to get the question on the ballot and who is permitted to circulate those petitions.

Percentage Threshold. CRC recommends returning to the 25 percent threshold only in conjunction with the above recommendation that the commission process be a requirement.

Circulators. Some opponents to the disincorporation of Onekama Village objected that some of those circulating petitions calling for a vote were not village residents. CRC does not recommend residency restrictions for petition circulators at this time, but recommends that the issue be considered within the larger context of ballot reform that reportedly is on the agenda of many state policymakers.

Subjects to be covered in Commission's Plan

The General Law Village Act lists several issues that a disincorporation commission must address to assess the benefits (or lack thereof) for disincorporation moving forward. CRC recommends the following changes to that list:

Ordinances. CRC recommends that the village zoning ordinance becomes an amendment to the township zoning ordinance and that all village ordinances continue for six months at which time they expire unless formally continued by the township.

Assets and Liabilities. The item related to assets and liabilities of the village could be simplified by amending it to state that all assets and liabilities go to the township or townships that the village overlaps unless otherwise provided for by the commission.

Effective Date of Disincorporation. The Onekama disincorporation commission had no direction on setting an effective date if disincorporation was approved by the voters. CRC recommends that law provides for a disincorporation date as well as for various activities to be discontinued but allow the commission to set another date if needed to meet individual circumstances.

Ministerial Duties after Disincorporation. CRC recommends that there be provision for either a village elected official at the time of disincorporation or a township elected official to perform ministerial functions following disincorporation of the village. This might relate to closing of accounts receivable and payable, final termination of contracts, and other matters that are not cleanly concluded before the actual date of disincorporation.

Property Taxes Due. The issue of whether the Village of Onekama's property taxes should be paid in the summer became an issue of discussion. CRC recommends that the law provide that all taxes properly levied before the effective date of merger/disincorporation be fully levied. There should be no opportunity to prorate the tax burden according to the effective date of disincorporation. It should further provide that taxes remain obligations to be paid to the township even after disincorporation. There should be no opportunity to wait out the effective date of disincorporation and elude the tax burden.

MICHIGAN'S RECALL ELECTION LAW

Contracts. The law could be simplified by affirmatively stating that the township must continue all of the village's contracts and special assessments, but otherwise has no obligation to continue village services. It is the duty of the commission (hopefully with input from the township) to determine which services will be continued.

Component Units of Government. The law could be simplified by providing that all special authorities (e.g., DDAs) are continued and made a township authority, unless the village is being divided into more than one township in which case it becomes a joint township authority. It should also provide that the township succeeds the village on all intergovernmental contracts.

Roads. CRC recommends that the issue of funding be addressed. It is CRC's recommendation that the funding stay with the roads in the event of disincorporation. County road agencies should receive the same level of state funding as is paid to the villages after the roads are transferred.

The law should state that the procedure in Act 269 should be used when villages disincorporate and roads are transferred to the county road agencies. Whereas other road transfers under PA 269 are usually voluntary, these transfers would be required. It might be advisable to amend PA 269 to provide for a neutral panel of road officials to judge the quality of the village streets relative to similar roads in close geographic proximity to protect against biased assessment of road conditions.

Alleys and Sidewalks. CRC recommends that the legislature provide greater clarity to whether townships are authorized to maintain alleys assumed from villages.

Fix Vote Requirements

Reform of the vote requirements could happen in several ways. The following are several paths that could be taken to alter the thresholds for approving disincorporation. It may be possible to piece together these recommendations, but each should be judged independently to assess whether it would improve the process.

Is 2/3 Vote Necessary? It is not clear why a super-majority vote should be required to disincorporate a village, when one considers that a simple majority

vote of the electorate is required in a statewide vote to amend the state constitution; in each government considering merger by incorporating as a new city; and in most other instances where the structure of government would be changed. One recommendation would be to just do away with the super-majority vote requirement.

A counter argument is that the super-majority vote requirement and allowing a separate path to the ballot through the commission process is a projection against frivolous petitions that garner 15 percent of the village electorate on petitions, but are not supported by the elected leaders nor do they have the general support of the residents.

Require Commission Process. The commission process succeeded in laying out a plan for merging the two governments together in Onekama and educating the electorate about the ramifications of their votes. CRC recommends above that all proposed mergers should be required to go through a commission process such as is provided for in the GLVA. This requirement would eliminate the need for supermajority votes on questions of mergers. After a plan is created, approval would require only a simple majority.

Remove Chance for Second Swipe at 2/3 Vote. If it is decided to maintain two paths to get to a question of village disincorporation to the ballot, then the GLVA should be amended to eliminate any possibilities of a second swipe at the super-majority requirement for voter approval.

It is recommended that, at a minimum, the second possibility of a super-majority requirement should be removed. Once members are appointed to a commission, that body is convened, and time and resources are committed to producing a quality plan, the village and township governments should not have a formal role to play in submitting the plan and the question of disincorporation to the electors. It is recommended that the plan produced by the disincorporation commission should be submitted directly to the voters for a simple majority vote. The village and township governments can and should provide council to the commission (see recommendations above regarding a formal role), but the plan produced by the commission should be final. If provisions of the disincorporation plan are adverse to either governmental entity, that body can communicate this to residents/voters in the form of a resolution or other political action.

Clarify Vote Requirement. The language in the GLVA related to the two-thirds vote requirement does not make it clear what bodies of electorate are to vote; whether the vote should occur as a single township, or the village and balance of the township should vote

concurrently but the votes counted separately. If a 2/3 vote requirement continues to be a necessity (see recommendation above/below), the language in Section 18a should be made clearer.

Conclusion

Onekama Township and the Village of Onekama were not successful in merging the two governments by disincorporating the village, but their efforts provide valuable lessons for those that follow and a first go at using the process provided for in the General Law Village Act.

Without formal exit polling to know exactly why Onekama residents voted the way they did, the community conversation would seem to suggest that their decisions rested on a few key facets of the disincorporation plan. It was important that the Manistee County Road Commission would be able to take care of the village streets at least as well as the village had been able to do so. The speed of snow removal was of utmost importance, something that village residents could be willing to pay extra to continue.

The transfer of stewardship of the Village assets to the Township was seen as a selling point for disincorporation by some. Because residents from throughout the community use the Village assets, and the Township has a larger tax base to put in to care of those assets, these people saw merger as a move toward equally distributing the burden across the community. However, many saw this transfer as an uncompensated loss of equity for Village residents. When the Village assets were viewed using a private property perspective, these people felt compensation was in order.

The finances of the proposed merger of the two governments was such that the five mills levied by the Village could be eliminated without replacement, at least for the near term (how long would depend on how economic conditions meet or beat assumptions). The plan continued the same level of services for Village residents. Despite this financial windfall, the majority of Village residents still voted against disincorporation of the Village.

Most of the lessons related to the disincorporation provisions in the General Law Village Act called for clarity in the language. Clarity is needed in petition circulation, the vote requirements, the disposition of roads, the collection of village property taxes, and the effective date of disincorporation. The question of voting when 2/3 approval is needed to affect disincorporation is primary issue in need of clarification. It seems odd that the residents of a governmental entity would not be asked specifically about their desire for its continued existence.

CRC also recommends a number of changes that would improve the merger process. It is recommended that all local government mergers use the same commission process that is provided for in the General Law Village Act. Representatives of the local governments should serve on the commission and the formal role for the village and township(s) should end when the representatives are appointed to the commission.

LESSONS FROM THE PROPOSED MERGER OF ONEKAMA VILLAGE WITH ONEKAMA TOWNSHIP

Introduction

Over the last several years, a small community in the northwest corner of Michigan's Lower Peninsula – Onekama in Manistee County – examined consolidation of the two governments into a single entity. The Citizens Research Council of Michigan conducted a study to consider the pertinent statutory provisions for consolidation of the general law village and township and to provide preliminary estimates of the finances for a consolidated governmental entity. Upon receipt of that study, the two governments created a commission to draft a plan for an orderly

merger of the governments, a process provided for by a 1998 amendment to the General Law Village Act (GLVA). CRC provided technical and administrative support to the commission as it considered the costs and benefits of consolidation. Because Onekama is the first community to go through that process since the 1998 amendment to General Law Village Act, this report is intended to report back on the lessons learned and recommend policies to improve the law for future communities that venture down this path.

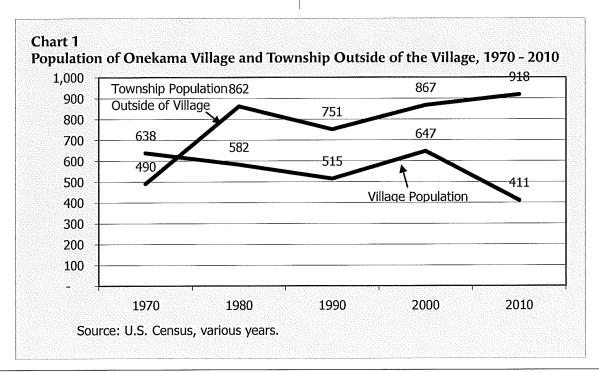
The Village of Onekama

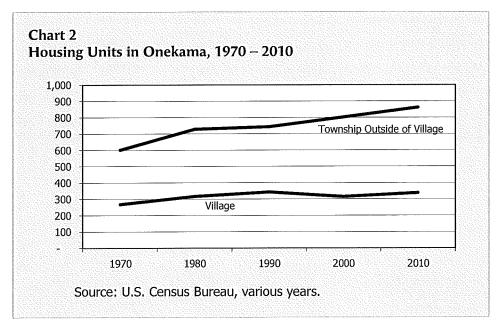
The Township of Onekama and Onekama Village are located in Manistee County on the eastern shore of Lake Michigan. Michigan townships are generally 36 square miles in area. Because Onekama Township lies on the shore of Lake Michigan, its size is reduced to only 18.1 square miles.

Portage Lake is an inland lake located completely within the boundaries of Onekama Township. Almost 20 percent of the township (3.3 square miles) is water.

The Village of Onekama, sits on the northern shore of Portage Lake, covering 1.5 square miles of the township.

The population, housing, and taxable value trends reflect the popularity of Onekama as a prime spot for vacationers. Unofficial counts estimate that the population of the area nearly doubles during the summer months. The township is experiencing most of this growth.





42 percent from 601 units in 1970 to 856 units in 2009.

Since 1996, the taxable value of township property outside of the village has more than tripled from \$41.4 million to \$139.7 million. During that same period, the taxable value of property in the village has

stock in the area has occurred in the township outside of the

village. The number of hous-

ing units in the township outside of the village has grown

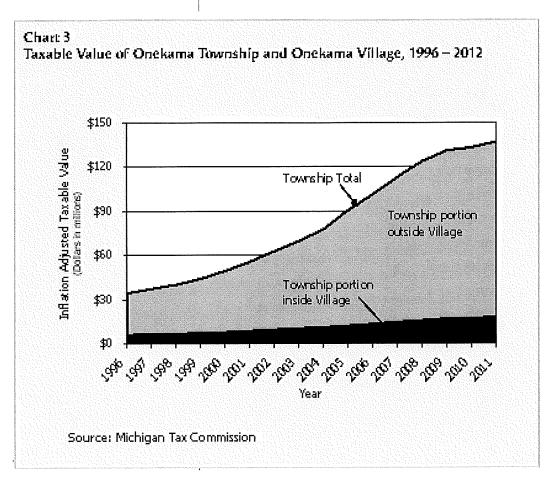
doubled, going from \$9.3 million in 1996 to 18.5 million in 2009. While growth in the Township's taxable value of property slowed considerably

since 2007, the growth of the Village's taxable value has assumed a much flatter pattern over this period.

The population of the Township of Onekama was 1,329 people in 2010 according to the U.S. Census

Bureau:1 411 in the Village of Onekama² and 918 outside of the village. The township population outside of the village was only 490 people in 1970, but grew to 862 people in 1980, and has remained fairly constant since that time. In 1970, 57 percent of the township residents resided in the village, but by 2010, only 31 percent of the township residents lived in the village.

While the number of housing units in the village has grown 28 percent over the past 50 years, from 268 units in 1970 to 343 units in 2009, most of the growth in housing



stated

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community.

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Events Leading to Disincorporation Vote

Besides the normal interaction of the village and township governments, the Onekama governments interacted in ways that drew attention to the complications of having two governments serving one community. Citizen involvement in the creation of a state-approved watershed plan for stewardship of Portage Lake led to recommendations for unity to protect and preserve the natural resources. Shortly

after the development of the Watershed Plan, the community began creation of a Joint Master Plan. Visioning for that plan unveiled a sentiment that consolidation of the two governments should be considered and the final plan included recommendations that consolidation be studied. Both the Village Council and Township Board passed resolutions calling for the consideration of consolidation options and implications.

Unlike some other instances where consolidation of multiple government entities has been considered, in Onekama the motivation was not because of financial hardship, the inability to undertake projects or afford development as individual entities, or pressure from the business community or residents. The stated primary motivating questions posed was whether there was a merger/consolidation option for

the two governments that would disadvantage neither the village nor township and (1) generate cost containment/reduction; (2) provide greater focus on strategy, goals, and objectives by having one government instead of two; and (3) provide more focus for bringing public and private investment to the community.

CRC's Feasibility Study

Citizen input in the watershed and joint master plan processes and the resolutions by the Village and Township governance to study consolidation led the governments to contact the Citizens Research Council of Michigan to study the feasibility of government consolidation because of CRC's prior policy analysis and research in this area and because of CRC's objectivity as an organization. The project was funded by the short-lived Shared Public Services Initiative, a program established to provide access to consulting services to build a business case, communication strategies and an implementation plan for local governments considering the consolidation of government services or complete consolidation. Although seed funding

originated from the State of Michigan, the Michigan Municipal League Foundation assumed the role of program administration and fiduciary oversight. Matching funding came from the township, the village, and the Portage Lake Watershed Forever Council. The Manistee-based Alliance for Economic Success provided fund development and project coordination and served as a neutral convener at the request of the

Township and Village governance.

The CRC study3 explored two options for consolidation: disincorporation of the village to leave only the township or incorporation of the township and village as a single city. It looked at the services currently provided by the village and township and analyzed how service delivery would by changed be consolidation of the governments. Finances were analyzed to consider the possibilities of econ-

omies of scale in service delivery, benefits that might be gained by uniting the populations for purposes of drawing state funding, and to model a financial structure for a united Onekama government.

A few issues stood out as major considerations for the leaders and residents to consider. (Because the ensuing actions of the Onekama elected leaders and residents was to pursue disincorporation of the village, the sections of the CRC paper that discussed the implications of incorporating the whole community as a city are omitted from this discussion.)

Villages in Michigan

The exercise of considering and planning for disincorporation in Onekama helped to shine a spotlight on the larger issue of the very existence of villages in Michigan. Aside from the villages that continue in Michigan's urban areas, the village has remained popular because of the sense of community it provides to residents and visitors. But their long-term viability in Michigan must be questioned. The small populations and limited geographic sizes that are common in most villages, the empowerment of townships to provide elective services, and the pressures created by Michigan's system of financing local governments all make the future of villages an issue.

Villages are not primary local units of government like cities or townships, but rather are incomplete governments that furnish elective local services. While the township government may perform certain elective local services for village residents, historically this was the exception rather than the rule. The purpose in organizing a village was to furnish local services to residents of a developed area in the township which the township government, due to its limitations, could not provide. The area of the village remains part of a township, village citizens are also township citizens, and the township government provides for residents of the village the legally-required duties imposed by the state of (1) property assessing for the purposes of taxation; (2) collecting tax levies (other than village taxes) for distribution to overlapping governments such as the county, school districts and the state; and (3) conducting elections for all jurisdictions other than villages.

However, village taxpayers pay more than township taxpayers because they pay for the elective local services provided by the village government and, in addition, help support all the activities of the township government. The extent of this double burden varies considerably from one village to another, and, in all fairness, it must be pointed out that since townships have been receiving revenue sharing payments from the state, the direct cost to village residents for township government has been, in many cases, little or nothing.

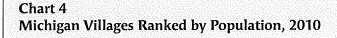
In the horse and buggy days of early Michigan, villages were the most practical way to provide the services commonly demanded when citizens and businesses are densely located in an area. Police protection to settle disputes, fire protection to save properties from harm, planning and zoning to create attractive communities, garbage collection, parks, and other services were better provided by villages than the geographically larger townships.

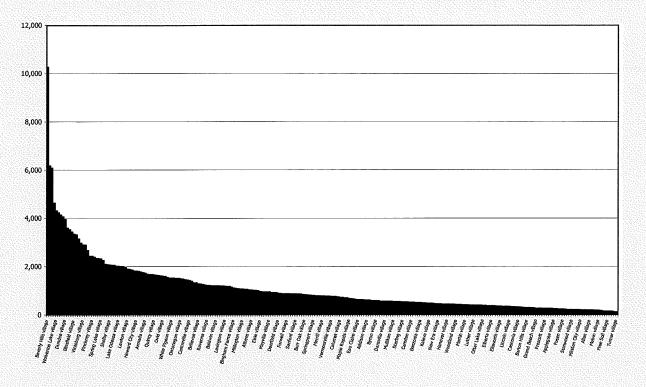
Small Governments

Michigan's structure of local government is characterized by a large number of general-purpose governments – cities, villages, and townships – with small populations. Of the 1,784 cities, villages, and townships in Michigan, the 2010 census counted 1,586 local governments (89 percent) having fewer than 10,000 residents and 1,016 (57 percent) having fewer than 5,000 residents. While this creates an environment where governments are close to the people and the officials can be more accountable to the electors, the tradeoff is duplication in the performance of some functions, overlapping responsibilities for some services, a limited number of individuals within each jurisdiction with the requisite skills to perform some functions, and missed opportunities for economies of scale, scope, and skill in the provision of services.

Michigan's 258 incorporated villages range in size from Beverly Hills (10,267), Milford (6,175), Holly (6,068), and New Haven (4,642) to Harrietta (143), Forestville (136), Eagle (123), and Turner (114). The average Michigan village has 1,088 residents and the median village has 759 residents. Almost two-thirds of the villages have less than 1,000 residents and 87 percent have less than 2,000 residents.

Michigan's villages range in geographic size from Dundee (6.0 square miles), Beverly Hills (4.0 square miles), and Mattawan (3.8 square miles) to Eagle, Copper City, and Ahmeek (each 0.1 square mile). The average Michigan village is 1.2 square miles, and the median village is 1.0 square mile. More than half of the villages are one square mile or less in size.





Source: U.S. Census Bureau

Antiquated Form of Government

At one time in Michigan's history, villages provided a stepping stone in a progression from sparsely populated township to more densely populated city. Most Michigan cities (but not the largest cities Detroit, Flint, Saginaw, etc.) were villages before reincorporating in the form of a city. For example, Chelsea and Grosse Pointe Shores are two cities that recently changed from a village to a city. Villages were expected to provide services to supplement the minimal services provided by the township. If they continued to grow, they eventually would convert from a village to a city. This grand design lost meaning over time as the differences in authority and powers that defined the types of government were blurred. Specifically as it related to villages, townships have been granted broad authority over time to provide many of the same services that are provided by villages and cities. Townships that have been the beneficiaries of recent economic development have avoided having a particular geographic region incorporate as a village and instead have adopted charter township status to provide services across the entire jurisdiction.

Villages contain the concentrations of people and businesses inside townships. Michigan has not felt the need to create separate governmental entities to manage the affairs of these geographic areas in other places. In cities these areas are referred to as downtowns. In other places they are referred to as business districts. In Detroit, the downtown or midtown areas are well established. Grand Rapids has a defined downtown area. In Traverse City it is the area around Front Street. Many charter townships also have well defined business districts, such as the areas along Ford Road in Canton Township and along Grand River in Meridian Township. In these places, the city and township governments have proven capable of providing the needed governmental services to help

make the downtown or business districts attractive, welcoming places without imposing additional taxes or electing officials to govern those areas.¹

Most of the villages that remain are old entities by Michigan local government standards. Sixty-nine percent of the remaining villages were incorporated prior to 1901. Only four villages have been newly formed in the last 40 years, and only one of those incorporated in the last 30 years. Dozens of townships have adopted charter status in this time period. The fact that only a few villages have been incorporated in recent history is a testament to the common view that they are an antiquated form of government.

Financial Sustainability

The years since 2001 have been a difficult period to manage the finances of local governments in Michigan. The recession has severely constrained the availability of state resources that were distributed to local governments in programs such as unrestricted state revenue sharing and highway funding. State revenue sharing funds flow to local governments from two pots: constitutional state revenue sharing and funding through the Economic Vitality Incentive Program (EVIP). Constitutional revenue sharing is distributed on a per capita basis to all cities, villages and townships. EVIP, which replaced statutory state revenue sharing, is distributed to less than 500 of Michigan's most populous cities and townships. EVIP dollars are not available to many small cities, most townships, and all villages.

Michigan's local governments are dependent on property tax revenues as the primary source of self-generated tax dollars for general fund purposes. While property values will recover over time from declines caused by the foreclosure crisis and the end of the housing bubble, Michigan's constitutional tax limitations will restrict the ability of local governments to realize growth in property tax revenues at rates corresponding to the rise in property values. The use of taxable value as the tax base will restrict the growth in the tax base to the rate of inflation (or five percent if inflation rises above five percent). Also, the tax limitations created by the Headlee Amendment in 1978 will cause local governments to reduce tax rates if turnover in property ownership creates growth in the aggregate tax base at a rate higher than the rate of inflation.

Since the twofold system of property tax limitation was put in place in 1994, the formula for healthy growth in property tax revenues has proven to be new development. Those communities that were able to add new residential, commercial, and industrial properties from the mid-1990s until the bottom fell out of the real estate market in the late 2000s were those that had the strongest growth in property tax revenues. Those governments for which there is little land available to build (those that are "built out") have little opportunity to benefit from new development.

Villages tend to have little land available for new development because most villages are very small in geographic size, are relatively old, and can be considered landlocked — either because of neighboring cities and villages or because of the political reality that annexation of additional territory ripe for new development is unlikely. As a group, village property tax revenues are likely to lag other types of local governments that have more opportunities for new economic development.

Finally, opportunities for cost savings that are available to many other governmental entities are less available for villages. The geographic isolation of most villages relative to other cities and villages makes intergovernmental collaboration difficult for many of the capital intensive services governments offer. While villages often do work with their host townships, the need to do so begs the question of the need for the village in the first place.

¹ The exception to this statement is the taxing authority granted to Downtown Development Authorities. Although these entities are established to capture tax revenues through tax increment financing, they are also granted authority to levy a one mill property tax on properties in the TIF district.

Roads/Snow Removal. Michigan cities and villages are eligible to receive state highway funding but townships are not eligible for those dollars. Michigan law does not overtly address what should happen to village roads if a village disincorporates, but in the absence of statutory direction it seems logical that they would become township roads and the responsibility of the Manistee County Road Commission.

While that seemed straightforward enough, as a community in northern Michigan along Lake Michigan, Onekama residents expressed desire that the aggressive approach to snow removal currently undertaken by the village should not be lost if the county road commission assumed the role of snow removal. The CRC Report described how other Michigan townships had dealt with similar snow removal issues and recommended a course of action for Onekama.

Sewer System. The Village of Onekama owns and operates a sanitary sewer system to which all village properties and a few prop-

erties outside of the village boundaries are connected. The CRC Report described how stewardship of the sewer system would be transferred from the village to the township; it addressed what would happen to the bonded indebtedness incurred for maintenance and upgrade of the sewer system; and it addressed concern that the merging of the two governments would necessitate extension of the sewer lines to township properties that had intentionally chosen not to connect to the system.

Village assets. The Village of Onekama owns real and personal property that would transfer to the township in the event of a merger. This includes the Farr Center, which serves as a community center, houses the village offices, and provides space for a local branch of the library. It also includes parks, cemeteries, office furniture and machines, vehicles and road equipment, and other assets. The CRC Report explained the transfer of stewardship of those assets from the village to the township.

Tax burden/Efficiency. It was CRC's assessment that merging the governments by eliminating the village would not create significant opportunities to create efficiencies by obtaining economies of scale. The township currently exists and would continue to exist in much its current form after the governments are merged. It would be possible, however, for village residents to benefit from growth in the township tax base that is occurring at a more rapid

rate than the village is experiencing, to eliminate some duplicative The elimination of the vilservices provided by the village, lage government would not and to capitalize on excess capaceliminate the village, only ity that would allow township offithe elected body with taxcials to perform additional tasks. Ultimately, the CRC Report projecting authority that governs ed that the village five mill tax levy the area. The village would could be eliminated with only mistill exist as an unincorponor revenue replacement from special assessments that would fund rated area that provides a enhanced snow removal and keep sense of place and identity, street lights operational in the vilin which businesses are lage. concentrated, and where

Governance. The CRC Report described how elimination of the village would alter governance of the

area that presently constitutes Village of Onekama. The nine offices that constitute the governing body of the village of 411 people would cease to exist. The entire region would be governed by the five member township board chosen in at-large elections to serve all 1,329 people in the township.

The Case for Disincorporation

The CRC report showed that it would be possible to eliminate a layer of government to reduce the cost and simplicity of government while still reinforcing the geographic area that constitutes the village as a place residents and visitors associate with. The elimination of the village government would not eliminate the village, only the elected body with taxing authority that governs the area. The village would still exist as an unincorporated area that provides a sense of place and identity, in which businesses are concentrated, and where people congregate.

Most of the cost of operating the Village of Onekama's services would be passed on to other entities – the

people congregate.

By eliminating the village

government but not the

geographic entity that

defines the village, the cost

of creating a desirable place

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village services.

Although township

township would take over responsibility for the sewer system and some other services and the Manistee County Road Commission would take over the village roads. By parsing out the village services and corresponding revenue streams, it became clear that village taxpayers pay a five mill tax primarily so that the governmental entity could exist to receive state highway funding dollars and to bill those connected to the sewer system for the cost of operations and to repay the bonded indebtedness.

In the end, taxpayer funded activities (those funded through the property tax revenues and from state revenue sharing dollars) constitute only about 30 percent of the villages expenses.

The savings are not significant in the big picture of Michigan local government finance. Elimination of the entire village tax levy would leave about \$95,000 in the hands of taxpayers. While even the aggregation of tax savings from the elimination of several villages would not begin to add up to the cost of operating the larger local governments in Michigan, it is important to keep in mind that each village property owner and taxpay-

er would benefit from the tax savings. In the case of the Village of Onekama, with a median household income well below the state average, any tax savings can be significant to the individual.

By eliminating the village government but not the geographic entity that defines the village, the cost of creating a desirable place would be more equitably spread across the community. Although township residents outside of the village boundaries do not pay taxes to the village government, they commonly benefit from the village services. They drive on village streets, utilize village parks, use the Farr Center and the library in that building, and benefit from a cleaner Portage Lake because the village sewer system diverts waste that would otherwise end up entering the lake through the water system. If everyone that benefits from the governmental services contributed to their provision, spending on

those services could be aligned with value the whole community places on the services.

Other potential benefits were less tangible. While the loss of a governing body for the village was viewed negatively by many, this change would have simplified access to local government. Because village governments are overlaid on top of township governments, there is naturally some blurring of the

lines of accountability for services provided to village residents. If a government service is not adequately provided, or there is need for new services, does responsibility rest with the village or township government? By eliminating the village government, it becomes very clear that responsibility rests with the township.

Consolidation of the governments would eliminate possibilities for conflicting visions for development and growth. It would provide a single, consistent set of goals, planning policies, zoning ordinances, and marketing strategies. Likewise, disincorporation of the village would eliminate the possibilities for conflicting policies to be adopted

by the village and township boards. These benefits can be realized even with a village government in place, but to do so relies on collaboration between the village and township boards. Consolidation of the governments would also enable more efficient collaboration with neighboring townships, such as the recently formed Lakes to Land Initiative where fifteen governmental entities in Manistee County and Benzie County are collaborating to develop master plans, recreation plans and a joint implementation strategy. Currently, Onekama Township is formally participating in that regional initiative, but the Village of Onekama is not.

Elimination of the village government would offer opportunities to streamline public participation in government. One facet of governments that serve relatively small populations is the high level of accountability and closeness to the people being served.

However, the downside of small populations is that there is a small pool of people to draw on for offices and volunteers. The same people are repeatedly called upon to serve in elected offices and on commissions, taskforces, and committees.

Finally, some feel that the elimination of the village government would be an act to modernize Onekama's

structure of local government. Disincorporation of the village would have pushed Onekama closer to the charter township model prevalent in many other parts of Michigan by disincorporating the overlapping governmental entity, eliminating duplicative services, spreading the financial burden across the wider geographic area, and relying on the township government to be a full service provider.

Onekama Community Education and Input

Over the period January 2011 through July 2012, there were a number of organized opportunities for Onekama community members to learn about alternatives for merging their two governments and to ask questions and understand the implications and processes. During this period, a total of 20 news releases about the process were issued on behalf of the Village and Township to keep individuals and media informed of the process, steps, status and opportunities for public involvement.

In February and March, the Village hosted two community forums.

The first forum was to identify community questions, concerns and opportunities about a potential merger that should be addressed by the CRC in analyzing merger options for the two communities. In addition to the forum, individuals were encouraged to identify their concerns or questions in any manner they chose over a three week period so that they could be addressed by CRC.

During the second forum, CRC described the options for merging the village and the township and provided responses to all of the guestions and concerns that were raised at the first forum.

On June 8, 2011, another open community forum was held where CRC presented the preferred single government option that held the greatest potential for a merger, the disincorporation of the Village into the Township.

In September and October, the Village and Township boards each passed a resolution to form the Disincorporation Commission.

In October, CRC issued a report entitled *The Costs, Benefits and Alternatives for Consolidation the Onekama Governments* that was made available via web site or in hard copy form.

The open meetings of the Disincorporation Commission began on January 10, 2012. Public notices were issued and posted to inform people of the date, time and place of each meeting. With few exceptions all Commission meetings were held every Monday at 3 p.m. at the Farr Center, Onekama's community center.

All of the Disincorporation Commission meetings were open to the public. In an effort not to exclude any interest from the process, individuals not in the Onekama area could participate through teleconferenced capability. The Village and Township leadership felt this added measure was especially important given the number of area residents who are seasonal.

On June 21 and July 19, 2012, two "Onekama Disincorporation Education" forums were held leading up to the August vote. The purpose of the forums, facilitated by the firm Public Sector Consultants (PSC), was to respond to questions about disincorporation ballot proposal. In addition to the forums, PSC prepared fact-based literature about the disincorporation that was disseminated to all residents in Onekama Township.

Placing the Question of Disincorporation on the Ballot

The CRC Report, two public forums that were held in anticipation of publication of the report, and community dialog on the matter, provided sufficient information so that by the summer of 2011 residents of Onekama were ready to pursue the question of consolidation. Petitions were circulated among village residents and in August, 2011, the township clerk certified them as containing a sufficient number of signatures (equal to at least 15 percent of the village electorate (58 signatures)) to place a question of disincorporation on the ballot.

The General Law Village Act provides two paths to the ballot from the point that the petitions are certified to have sufficient signatures:

- a. an immediate referendum, or
- b. creation of a disincorporation commission followed by a referendum.

a. Immediate Referendum

Should the elected village board take no action, the question of disincorporation would appear on the ballot at the next general or special election to be held in the village. Disincorporation of the village becomes effective using this avenue only if two-thirds (2/3) of the electors vote "yes".4

If the village and township pursue disincorporation by creating a disincorporation commission as described hereafter, but the elected village and/or township boards do not ratify the plan drafted by that commission, the vote requirement reverts to the two-thirds requirement contained in this provision.

b. Disincorporation Commission and Referendum

Once the clerk determines the sufficiency of the petitions, the village board may, by resolution, elect to adopt procedures set forth in the General Law Village Act⁵ to create a disincorporation commission. The commission is composed of six members with equal representation from the village and the town-

ship. The village president, with approval of the village council, is responsible for appointing three members to represent the village and appointing a chairman/president for the commission. The township supervisor, with approval of the township board, is responsible for appointing three members to represent the township. The commission would be charged with addressing the following issues:

- Land use planning and zoning within the village
- Payment of indebtedness of the village
- Disposition of the village's real and personal property and other assets
- Disposition of all **public records** of the village
- The transfer or termination of village employees
- Jurisdiction over the village's roads, sidewalks, and any public easements, including street lights and snow removal
- Jurisdiction over traffic control
- Provision for any special assessments within the village
- The transfer or termination of public utilities and public services of the village
- The regulation or orderly transfer of responsibility for any special districts (such as historic districts, downtown development districts, TIF districts, and land subject to PA 325 agreements)
- Provision for any special authorities that the village has established or is a member
- The fiscal impact of dissolution upon the township and the residents of the village
- A process for resolution of any disputes that may arise in the process of disincorporating
- The effect disincorporation may have on property values, public service levels and costs, and local property tax rates

The plan drafted by the

Onekama disincorporation

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approved by five of the six

members of the disincorpo-

ration commissions.

Why Two Methods?

Provision for a disincorporation commission allows the community to investigate issues, discuss merits and faults of high profile issues, plan for contingencies, and educate the electorate. It is commonly observed that people do not vote for change if they

do not understand the ramifications. A disincorporation plan, fleshed out by those inside the village and those in the township(s) external to the village, provides a reasoned plan for voters to weigh against the status quo. It is therefore possible to submit the question to the voters without requiring a supermajority to approve disincorporation.

Even though the logic in providing for the commission process is sound, the need for two tracks to the ballot is fairly straightforward. Prior efforts to call for village disincorporation votes have not always enjoyed the groundswell of community backing that occurred in Onekama. By allowing for a

track outside the commission process - have the question to go directly to the ballot but requiring a higher threshold for approval – the law allows the village and township governments and elected officials to avoid the expenditure of scarce resources to flesh out the issues or plan for contingencies in the unlikely event of voter approval.

Problems Created by Allowing Two Paths to the Ballot

In the end, those opposed to consolidation of the governments in Onekama found a way to game the system to make disincorporation harder to accomplish. The GLVA provides that the plan drafted by a

disincorporation commission must

board had requested the commission be convened, in the end politics won out and the plan was rejected by the very Village board of trustees that had voted to consider consolidation and to form the disincorporation commission without a substantive objection to the plan.

Onekama's Experience with the Disincorporation Commission

Petitions calling for a vote on disincorporation of the Village of Onekama were certified to have enough signatures in August, 2011. The Village Board of Trustees voted shortly thereafter to pursue the option in the GLVA to create a disincorporation commission.

Earlier in the year, Governor Snyder's program to replace statutory revenue sharing dollars with a program to encourage desired actions by local government was enacted. The Economic Vitality Incentive program included \$5 million to be available to local governments seeking assistance with efforts to consolidate whole governments or the delivery mechanisms for particular services.

Because of the cost of legal and technical support (and to carry out consolidation in the event of voter approval), the elected leaders in the Village and Township sought funding from the EVIP program with the grant seeking assistance of the Alliance for Economic Success. A grant request was submitted in time to meet the state's November deadline. Members of the disincorporation commission were appointed by the village and the township during this period, but little more was done while the Onekama community waited to hear from the state whether theirs would be one of the projects funded by the limited EVIP funds.

Eventually the commission was called to convene at the beginning of January, 2012. Coincidently this was about the time that the state informed Onekama that an EVIP grant was being awarded. In addition to the six members appointed to the commission, alternate commission members were appointed knowing that at least one member had plans to spend at least part of the winter months in southern, warmer environs. The alternate members only attended meetings, they had no voting privileges until one was actually called upon to replace a commission member.

It should be noted that the Township Supervisor and Village President were constant attendees at the meetings and endeavored to provide commission members with all materials needed to facilitate their investigation of the issues. Other elected officials were in frequent attendance providing support when

called upon.

The commission adopted bylaws calling for weekly meetings and decisions to be achieved by consensus. The GLVA requires the commission to address several topics, many of which could have repercussions on other topics. By working from consensus and not taking official votes on the plan until it was assembled and the pieces fitted together, the members were able to ask questions and provide direction to the support staff without committing to hard and fast decisions that could later become an impediment to compromises.

The convening of the commission began with the village clerk swearing in the members as established in the GLVA,⁶ but because that person has a day job, her regular attendance at the commission's 3 p.m. meetings was not possible. Instead a deputy was sworn in to take minutes of the meetings. An issue such as this would probably go unnoticed in a bigger jurisdiction, but the clerks in small jurisdictions such as Onekama Township and Village do not work full-time for the government and do not have staff that could be assigned to a commission such as this.

Because the GLVA⁷ calls for the election to be held within one year of the certification of the petitions calling for a vote, and because the commission surrendered two months hoping for word from the state that some of the costs would be covered by a grant, the commission adopted an aggressive meeting schedule once they were convened. The commission met every Monday from January through the end of March for at least two hours per session.

This proved to be an intense schedule for those working to support the commission's efforts. Mondays were committed to the meetings. Tuesdays, Wednesdays, and parts of Thursdays were available for research, drafting plans to deal with specific issues, and preparation for the ensuing meetings. Material was submitted to the commissioners for the next Monday's meetings by the Thursday afternoon. This left Fridays as the only working days to deal with matters other than the proposed consolidation of the Onekama governments.

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bine to make this funding

possible.

The commission's plan for disincorporation was near completion by the middle of March. While several commission members felt strongly that the plan should include information about the status quo the financial feasibility of the village without new taxes if the voters disapprove the question of disincorporation - very little text was included to make this point. The primary motivations for keeping it out were concerns that the commission members would be engaging in "electioneering" by straying too far from the charges laid out in the GLVA.

Commission members approved the final plan by the end of March and it was submitted to the Village

and Township boards to be ratified. The highlights of the plan are described below. Although the GLVA act is silent on when change should take effect, the commission decided that very little lead time was needed and provided that the village would cease to exist as of October 31, 2012, if the question was approved by the electors.

Upon the commission's submission of the plan to the Village and Township boards, it became a duty of each board to consider the question of ratification. While the Township board immediately ratified the plan, the Village board voted against ratification. The Township board subsequently adopted a resolution stating that it was their intention to honor the commission's plan if the voters approve disincorporation, even without the Village board's ratification of the plan.

The electors in Onekama defeated the disincorporation question at the August 7, 2012, election. The results show a majority of the voters in Onekama supported merging the governments -340 voted for disincorporation and 305 against it (86 for and 139 against in the village, 254 for and 166 against in the township), but not enough to meet the 2/3 vote requirement.

Onekama's Disincorporation Plan Highlights

The disincorporation plan adopted by the commission and submitted to the Village and Township boards can be accessed at www.crcmich.org/ PUBLICAT/2010s/2012/Onekama/plan.pdf. The highlights of the plan are as follows:

Eliminate Village's 5-mill Tax

The commission was able to show that the village's tax could be completely eliminated for several years without replacement revenues from either township taxpayers or special assessments on village proper-

> ties. If at some point in the future revenues were not sufficient to fund the higher level of services the plan set for the village area, a special assessment district could be created. A number of factors would combine to make this fund-

ing possible.

First, the Village would have moderately sized fund balances that would be turned over to the Township. The commission's plan included a requirement that all of the Village's funds should be used for Village purposes - enhanced snow removal services, street lights, park upkeep, etc. The moderately sized fund balances would allow the Township to take on these additional burdens without additional cost to the township residents.

Second, to some extent the consolidation would have the intended effect of eliminating duplication

between the two governments and capitalizing on the excess capacity of the Township officials to perform their assigned tasks. The amount of duplication between a village and a township is not as significant as would be found when combining two cities, two townships, or a city and a township, but some duplication exists and can be eliminated through consolidation. A number of the boards that

were created to coordinate activities involving both entities could be eliminated. Township officials that are limited in their activities because of the limited size and population of the township could increase their activities by providing those services to the village residents that were formerly served by the village officials without additional cost.

Third, consolidation is possible without adding cost to the township taxpayers or imposing a residual tax on village residents because property tax revenues constitute a small percentage of the total revenues for the Village. Taxpayer funded activities only com-

prise about 30 percent of total Village expenditures, and property taxes make up about two-thirds of that total. The state revenue sharing dollars (entirely from the constitutional pot, neither the Village not the Township receive any Economic Vitality Incentive Payment funding) would go from the Village to the Township on a dollar for dollar basis. The Village government primarily exists to be the entity operating the sewer system and to receive state funding to care for the village streets. The revenues received and expenditures made for these pur-

poses do not intermingle with property tax revenues and state revenue sharing dollars. There would be a dollar for dollar shift in the funding to coincide with the change in responsibility for those services.

Finally, with even a moderate return to the trend in growth of the Township's property tax base the foregone Village property tax revenues would soon be replaced. Expansion of the Township's property tax base should yield sufficient revenues within a couple of years to make up the difference.

Streets Issues

Jurisdiction of Streets. The care of the Village streets was a major issue for the commission. Where most issues could be settled between the Village and the Township, this was not possible for the streets because townships are not eligible to receive highway funding dollars under Michigan's Public Act 51

of 1951. The Manistee County Road Commission was the logical recipient of the village streets, but if left to their own resources it was not likely that the village streets would receive the same level of care after disincorporation as they received before - especially as it related to snow removal.

Michigan law does not dictate a course of action to transfer jurisdiction of roads if a village disincorporates. Because townships are not eligible for state funding it seems that transferring the roads to the county road commission was the only option, but then the parties had to address how such a trans-

> fer should occur. In ordinary cirdy the flaws.

cumstances, the Transfer of Juris-Elimination of the village diction over Highways, Act 269 of property tax levy was pos-1969,8 would be used to transfer sible in part because the Viljurisdiction over roads. By providing that roads must be brought lage government primarily up to acceptable standards before exists to be the entity opthe receiving agency was to acerating the sewer system cept responsibility for them, this law protects against road agencies and to receive state fundfrom being forced to accept roads ing to care for the village in poor condition and needing to streets, both dedicated expend major amounts to reme-

> Both the Onekama governments and the Manistee County Road Commission entered talks about the roads with the expectation that PA 269 would apply. Because none of the village streets are in such dire condition that the road commission would be assuming a liability and because the township levies a one mill property tax to provide matching funds for county road commission upgrades to Onekama streets (outside and within the village), the road commission was assured that ongoing funds would be provided for the foreseeable future to facilitate upgrades to the village streets as needed.

> Ultimately it was agreed, and the commission recommended, that the roads be transferred to the county road commission without investment to upgrade them prior to transfer. It was recommended that the Township pledge to seek further voter approval of the road millage to be used to maintain the village and township streets.

funding sources.

Negotiations with the

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commission.

State Road Funding. The level of funding that could be expected from the state through Public Act 51 for the Village of Onekama streets also turned out to be an issue. While the village currently receives about \$36,000 a year for the care of its 6.01 miles of streets, the application of that road mileage to the county formula would provide about one-third of that funding amount to the Manistee County Road Commission.

The difference in funding amounts for these road miles point to a flaw in Michigan's system for distributing funding for roads. The character of the roads do not change just because jurisdiction of the roads change, but funding amounts will change because Michigan distributes funds based on the type of government with jurisdiction. The idea that change would lead to less money available to the governmental entity that would be responsible for the care of the village roads acted as a disincentive to consider disincorporation. An alternative

approach in state policy would be to fund the roads based on their characteristics - urban vs. rural, arterial, collector, local access, traffic counts, etc. In this scenario it would not matter what governmental entity has jurisdiction over the road and a new incorporation or disincorporation would not change the funding attached to each road.

Enhanced Snow Removal. As a northern Michigan community on the shores of Lake Michigan, Onekama gets more than its share of snow. The Village policy is to have snow plows on the streets during and immediately after snow falls, as the circumstances dictate, keeping the 6.01 miles of village streets passable for village residents. The Manistee County Road Commission works to keep all of the county roads free of snow, and must prioritize keeping the state roads and major arterials clear. Side streets and lesser traveled collector roads are addressed when the major streets are clear of snow. Under these arrangements, reliance on the road commission would have resulted in predictable delays in clearing the village streets of snow for the residents of Onekama.

Negotiations with the Manistee County Road Commission established a plan that would have allowed the village to maintain the same approach to snow removal even after disincorporation and the transfer of jurisdiction over roads to the county road commission. The road commission would employ a temporary worker solely to clear the Onekama Village streets. That person would take a truck from the county road commission barn, which happens to be close to

ance of Onekama Township.

Onekama, and work in the village until the streets are free of snow. The remaining hours of a shift would be spent clearing snow in the bal-

This arrangement was going to cost Onekama Township extra and was to be paid out of three sources: (1) A village-owned snow plow would have been sold to the county road commission for \$1 with the residual value of the truck credited to the township and that value applied to future snow plowing services: (2) The funds in the village's major and minor street fund ac-

counts would have been transferred to the township with the values dedicated to funding snow removal in the village: (3) When the equity from those sources was exhausted, the township would fund this snow removal service either from general fund appropriations or by creating a special assessment district in the geographic area that constituted the village.

Sewer System to be operated by Township

The extent to which Onekama Village's sewer system serves properties beyond the village boundaries has been an issue for Onekama residents for some time. Previous efforts to have all properties in the Portage Lake watershed connected to the sewer system were met with some resistance.

With that as background, the efforts to disincorporate Onekama Village were met with skepticism by some residents because of the sewers. Would elimination of the village and transfer of the sewer system to the township cause all township residents to connect to the sewer system? Would such a trans-

Some village residents

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assets to the township

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pensated transfer of equity

from the village residents to

the non-village residents.

fer place the burden of repaying bonds sold for sewer system upgrades onto all township residents?

The disincorporation plan laid out a procedure to transfer stewardship of the sewer system from the village to the township. Likewise, the outstanding bonded indebtedness would be transferred from the village to the township. The properties connected to the sewer system would not change as a result of these transfers, but properties could opt to connect

to the system at any point in the future. Because the bonded indebtedness is repaid from fees collected from those receiving sewer system services, those not connected to the system would feel no effects of this transfer.

Township Conservator of Village Assets

The disincorporation plan provided for the transfer of Village as-

sets to the Township, assets include the Farr Center, parks, easements, and personal property (office equipment, furniture, tools, etc.). Instead of the Village acting as the steward of the assets for the benefit of all, the Township would have assumed this responsibility. Some assets would have been unneeded by the Township, and it is possible that they would have been sold at a later date.

This was a major issue for some village residents. Their sense was that such a transfer of assets would result in an uncompensated transfer of equity from the village residents to the non-village residents. This notion was based upon the idea that their taxpayer dollars had purchased the assets.

This is not an issue that can be addressed statutorily, but will require greater education for the future governments attempting to merge. The confusion of private and public property mistakenly presumes that the assets of one governmental entity are used solely for the benefit of that entity's residents.

In actuality, the public assets "owned" by the village were funded by many sources besides village taxes. In addition to the locally collected property tax rev-

enues, the Village uses state revenue sharing dollars, Public Act 51 highway funding distributions, occasional grants, and other revenue sources to acquire, upgrade, and maintain its assets. Real estate assets such as the Farr Center and village parks were bequeathed to the Village or purchased and upgraded using local, state, and grant dollars.

Additionally, the assets are avail-

able to everyone and are used to benefit everyone, regardless of residence. As a host to vacationers and "snowbirds" that benefit from the public assets even though they do not have established residences in Onekama, the use of Onekama's assets are spread further than even the township boundaries.

Furthermore, a change in stewardship over the assets does not physically remove those assets from the village. The assets would have continued to be equally available to everyone and used to benefit everyone if the village was disincorporated.

To mitigate the perceived

sense of loss from the

change of stewardship over

the Village's assets, the dis-

incorporation plan estab-

lished that all monetary as-

sets would be used solely for

the provision of services

within the geographic area

that constitutes the village.

Village Assets Used Solely in the Village

To mitigate the perceived sense of loss from the change of stewardship over the Village's assets, the disincorporation plan established that all monetary assets would be used solely for the provision of services within the geographic area that constitutes the village. Special funds would be established by the

Township and the Village's general fund equity would be used for upkeep and upgrade of the village parks, for street lighting, for brush pickup, and for snow plowing (as described above). The equity in the road funds would be used solely for care of the village streets.

Village ordinances have to be adopted by township to affect only village

The drafting of a plan for village disincorporation proved a useful exercise because it forced the board of trustees to revisit the Vil-

lage ordinances. Some ordinances were outdated and obsolete. Some were out of conformity with state laws. This exercise gave the Village the opportunity clean up their ordinances, which is of benefit regardless of the disincorporation vote.

This exercise identified other ordinances that were enacted to manage the interaction of residents living in close proximity to one another. Ordinances such as one that bans open burning were enacted to minimize negative externalities, in this case the

> risk of fire and smoke adversely affecting neighbors. While such an ordinance is desirable in the village, it is less desirable in the township where structures are spaced further apart and there is less risk of quired the Township to enact new line with those that the Village has

negative externalities. The disincorporation plan would have reordinances, where similar ordinances do not currently exist, in adopted because of its circumstances relative to the Township. While the GLVA is very thorough

in enumerating many issues that a disincorporation commission should deal with in creating a plan, the alignment of ordinances is not among those issues.

Recommendations to Improve Process of Local Government Consolidation

As the first village and township to consider the costs and benefits of village disincorporation under the 1998 provisions added to the General Law Village Act, the lessons of Onekama's experience provide for a number of recommendations that would improve the process for the next community to travel

down this path. Several other villages reportedly were watching the proceedings in Onekama and were considering similar action in their communities. Also, legislation may soon be considered to replicate the General Law Village Act's provisions for disincorporation in the Home Rule Village Act. Before these provisions are replicated in other laws that apply to local governments, the legislature should address short-comings or omissions in the present General Law Village Act.

ers, consolidations, disincorporations, or blending of whole units of government to go through a commission process. This should apply not only to the disincorporation of villages, but also to the merger of townships, when a city and township consider consolidation, when two cities consider merging into

a new city, and in any other circumstance of this nature. The provisions in the General Law Village Act (MCL 74.23 et. seq.) provide a starting point for such a process.

Michigan's laws should be amended to create stand alone provisions that require any proposed mergers, consolidations, disincorporations, or blending of whole units of government to go through a commission process.

Expand Membership of Commissions

The idea of appointing alternate members to the Onekama disincorporation commission proved to be worthwhile when one of the members had to be replaced. Given that disincorporation commissions have

to educate members on the affairs of the governments, and bringing a new member up to speed half way through the process would slow everything down, the legislature might want to consider statutory provision for alternate members.

The GLVA currently provides that village and township elected officials can be part of the disincorporation commission.9 After watching the vital role that the elected officials from Onekama Village and Township played in supporting and advising their commission members, it is recommended that the membership of the commission be expanded from three to four members (or from 9 to 12 members if the village resides in two townships), requiring that at least one of the four representatives is an elected official of the village or each township that the village overlaps. Onekama Village and Township officials were diligent about attending the meetings, but one can imagine a scenario where this does not happen. The work of the commission is not possible without support/input from the elected officials.

A more controversial change would be to mandate that a County Road Commission appointee also be on the commission or in regular attendance at com-

Improve the Commission Process

Michigan has had very few governments consolidate over the past half century. The City of Battle Creek and Battle Creek Township merged in the 1980s. The cities of Iron River and Stambaugh and the Village of Mineral Hills consolidated into the City of Iron River in the 1990s. No other consolidations have received voter approval. It is not clear whether the lack of success stems from a general unwillingness of residents to deal with consolidation issues or a general inclination of voters to vote against change when the repercussions are unclear.

Disincorporation did not occur in Onekama, but it was not because the residents were voting against an unknown change. The commission process proved a success in providing to residents the information needed to make informed decisions.

Require Commission for All Mergers

Michigan's laws should be amended to create stand alone provisions that require any proposed mergmission meetings (for village disincorporations only). Road care is a major function of villages and, in the event of disincorporation, the road commissions are the end recipients of the roads. The citizens of Onekama would have better served in this disincorporation process to hear the road commission's plans for village streets directly from the road commission on a more frequent basis.

State Technical and Financial Support

It is not likely that a disincorporation commission

with members selected from outside of the governments in question could do this work alone. Local government operation and finance is not so complicated that an interested citizen cannot understand the issues, but they are complicated enough that some education is expected to make decisions affecting the existence of a governmental unit.

It is recommended that the state maintains a policy of providing financial support for local governments willing to consider the difficult political questions of consolidation.

It was important to have perspectives from outsiders to explain how Onekama's experiences compare to other governments and to have legal support to help the commission steer through many issues. In the case of Onekama, the Citizens Research Council of Michigan was engaged to relate the findings of the feasibility study, to provide best practices from other communities, and to help guide the commission through the financial issues before them. Additionally, legal counsel was contracted to deal with legal tangles and help with many matters that required an understanding of specific provisions in law.

Ultimately an EVIP grant will pay more than \$100,000 for the cost of convening and supporting the Onekama disincorporation commission. It just so happened that the EVIP grant program was initiated about the time that the petitions were being circulated and submitted calling for a vote on disincorporation of Onekama and the process did not create a hardship for those governments. It is not likely that many villages and host townships would have sufficient funding on hand to fund a disincorporation commission on their own, especially with local government budgets severely constrained as many Michigan

local governments have been for the past decade. In addition, throughout the Onekama process, the two governments and the commission generally sought to conduct their analysis of consolidation and its implications with the assistance of a "neutral convener" where CRC and the Alliance for Economic Success often served in that capacity. There are few entities in communities that are viewed as completely neutral such that all parties feel that they may participate equally in the process and make their feelings known. Without a neutral entity, it will be extremely difficult for two governmental entities to lead

a merger or consolidation discussion and, in most cases, the participation of a neutral facilitator will only be available at a cost.

It is recommended that the state maintains a policy of providing financial support for local governments willing to consider the difficult political questions of consolidation. Grants should be awarded on an ongoing basis to expedite

grant making experience that delayed the start of the Onekama disincorporation commission's meetings. It should pay for feasibility studies and the support of local governments meeting to work out the details of consolidation. It should also be a separate grant process than any support that is needed for dealing with the "bubble cost" of merger.

Time Allotted

There was a general sense that the GLVA's provision requiring that the vote occur within one year after the date the petitions are submitted¹⁰ is really pushing the bounds of reasonableness. The disincorporation commission adopted a very aggressive meeting schedule, but was still challenged to get everything done in time to comply with the four election dates authorized in the Michigan Election Act¹¹ and the clerk's requirements that lead up to each election. The Village of Onekama is a rather simple entity in the big picture of Michigan local government. A larger, more complex village would surely encounter even bigger challenges. It is recommended that the GLVA be amended to allow a vote to be scheduled up to two years after the certification of

the petitions to allow sufficient time for a thorough and well produced plan to be prepared.

Provide Contingents for Role of Village Clerk

The GLVA¹² lays out specific roles for the village clerk in calling the first meeting and serving as the secretary of the commission. In Onekama the village clerk was unable to attend commission meetings so a qualified citizen was drafted to serve as the secretary. The law should specifically provide for a deputy clerk

or other proxy to serve this role to remove future contention over whether this is proper. It is not uncommon for officials in small governments to have day jobs and the law should account for this possibility.

The Petition Process

The issues raised about the petition process focused on the requisite percent of the number of eli-

gible voters in the village required to sign petitions to get the question on the ballot and who is permitted to circulate those petitions.

Percentage Threshold

Prior to amendments to the General Law Village Act in 1998, ¹³ MCL 74.18a required petitions to be signed by 25 percent of the registered electors of the village. The 1998 amendment changed it to 15 percent of the registered electors, but created the commission process at the same time which allowed for a simple majority vote.

Opponents to the Onekama disincorporation argued that 15 percent is too low and that it should be returned to 25 percent of the electorate. In Onekama this would have required another 39 petition signatures to qualify the question for the ballot (97 signatures instead of 58).

CRC recommends returning to the 25 percent threshold only in conjunction with the above recommendation that the commission process be a requirement.

Circulators

Some opponents to the disincorporation of Onekama Village objected that some of those circulating petitions calling for a vote were not village residents. If the village residents are petitioning for consideration of the disincorporation question, should township residents that reside outside of the village (or anyone else) be allowed to circulate petitions to collect signatures from village residents?

Continuation or cessation of village ordinances within the geographic area that defines the village should be an item on the list of issues to be considered by a disincorporation commission.

Michigan permits paid petition circulators that are not Michigan residents to collect petition signatures to qualify initiated laws and initiated constitutional amendments for the statewide ballot. CRC does not recommend residency restrictions for petition circulators at this time, but recommends that the issue be considered within the larger context of ballot reform that reportedly is on the agenda of many state policymakers.

Subjects to be covered in Commission's Plan

The General Law Village Act¹⁴ lists several issues that a disincorporation commission must address to assess the benefits (or lack thereof) for disincorporation moving forward. CRC recommends the following changes to that list:

Ordinances

Continuation of the Onekama Village ordinances was an important issue that stood out in its omission from the list of issues to be considered by a disincorporation commission. Continuation or cessation of village ordinances within the geographic area that defines the village should be an item on that list. CRC recommends that the village zoning ordinance becomes an amendment to the township zoning ordinance and that all village ordinances continue for six months at which time they expire unless formally continued by the township.

CRC recommends that the

law provide that all taxes

properly levied before the

effective date of merger/

disincorporation be fully

levied.

Assets and Liabilities

The item related to assets and liabilities of the village could be simplified by amending it to state that all assets and liabilities go to the township or townships that the village overlaps unless otherwise provided for by the commission.

Effective Date of Disincorporation

The Onekama disincorporation commission had no direction on setting an effective date if disincorporation was approved by the voters. The drafted Onekama disincorporation plan provided for an effective date of October 31, 2012, just prior to the November elec-

tion. In setting the date about three months after the vote, the commission hoped to avoid confusion at the November ballot. If the effective date of disincorporation was set after the November election, village officials would be elected in November, but only serve for short time before disincorporation becomes effective. CRC recommends that law provides for a disincorporation date as well as for various activities to be discontinued but allow the commission to set another date if needed to meet individual circumstances.

Ministerial Duties after Disincorporation

CRC recommends that there be provision for either a village elected official at the time of disincorporation or a township elected official to perform ministerial functions following disincorporation of the village. This might relate to closing of accounts receivable and payable, final termination of contracts, and other matters that are not cleanly concluded before the actual date of disincorporation.

Property Taxes Due

The issue of whether the Village of Onekama's property taxes should be paid in the summer became an issue of discussion. Village property tax bills went out in the summer, but were not due until after the vote on disincorporation in August. The

plan provided that the Village would continue to exist for a short time even if the voters approved disincorporation.

Support staff for the disincorporation commission were asked to research whether property taxes are paid ahead for future services or paid retroactively for services received over the past year. Could tax-

> es be adjusted to reflect the fact that the village would only provide services for eight months in its fisapproved?

cal year if disincorporation were approved and became effective on October 31? Could taxes be paid in full as scheduled, but refunds granted if disincorporation were

Research found that taxes are paid for the provision of services without regard to the date of service provision. Governments use accrual accounting that attributes revenues and expenditures to the fiscal year in which they are received or provided, but prospective or retroactive attribution of the finances are not part of the consideration. There is no authority and no precedent for either a partial year levy or a tax refund. The practical difficulties in a tax refund, even if it were allowable under the law, would be very great.

The need for clarification eventually became unnecessary because the Onekama disincorporation plan called for all fund balances and all Village tax revenue that would be transferred to the Township to be used for public purposes within the Village area. All tax monies would be used for services to the Village even though the taxing entity, the Village, had been disincorporated.

CRC recommends that the law provide that all taxes properly levied before the effective date of merger/ disincorporation be fully levied. There should be no opportunity to prorate the tax burden according to the effective date of disincorporation. It should further provide that taxes remain obligations to be paid to the township even after disincorporation. There should be no opportunity to wait out the effective date of disincorporation and elude the tax burden.

Contracts

The law could be simplified by affirmatively stating that the township must continue all of the village's contracts and special assessments, but otherwise has no obligation to continue village services. It is the duty of the commission (hopefully with input from the township) to determine which services will be continued.

Component Units of Government

The law could be simplified by providing that all spe-

cial authorities (e.g., DDAs) are continued and made a township authority, unless the village is being divided into more than one township in which case it becomes a joint township authority. It should also provide that the township succeeds the village on all intergovernmental contracts.

The law should state that the procedure in Act 269 of 1969 should be used when villages disincorporate and roads are transferred to the

county road agencies.

cies should receive the same level of state funding as is paid to the villages after the roads are transferred.

The Onekama disincorporation commission began its consideration of road jurisdiction by assuming that PA 296 of 1969¹⁵ would drive the process for the transfer of roads and thus all roads would have to be in satisfactory condition before the county road commission would be required to accept jurisdiction. This is not explicitly stated anywhere. The Manistee County Road Commission waived this provision be-

cause Onekama Township levies a road millage and there is assurance that road funding will be available to fund future upgrades.

The law should state that the procedure in Act 269 should be used when villages disincorporate and roads are transferred to the county road agencies. Whereas other road transfers under PA 269 are usually voluntary, these transfers

would be required. It might be advisable to amend PA 269 to provide for a neutral panel of road officials to judge the quality of the village streets relative to similar roads in close geographic proximity to protect against biased assessment of road conditions.

Roads

In Onekama, "Plan A" was to shift the roads to the county road commission, but it wasn't clear what "Plan B" would be if the county road commission contested that action. Fortunately, the Manistee County Road Commission was willing to work with Onekama to get through this issue. The next disincorporation effort not might go as smoothly.

The item related to jurisdiction over streets could be simplified by amending it to say that village streets become county roads at the time of village disincorporation.

CRC recommends that the issue of funding be addressed. Currently Michigan law differentiates funding amounts based on the type of governmental entity with jurisdiction over the roads. City and village streets receive more per mile in Act 51 funding than is distributed for county roads. Thus, it is a disincentive for villages to disincorporate and have village streets become county roads. If the entire funding mechanism is not changed, it is CRC's recommendation that the funding stay with the roads in the event of disincorporation. County road agen-

Alleys and Sidewalks

Michigan law is generally silent on jurisdiction over alleys and sidewalks. When the McNitt Act transferred township roads to county road commissions in 1931, it provided that the county road commissioners in each of the several counties "shall take over as county roads all streets and alleys lying outside the limits of incorporated cities and villages ..." [emphasis added by CRC] Act 51 does not specify that county road agencies shall henceforth be responsible for all township alleys, probably because there is no funding for their care as there is for roads and bridges.

All indications in the Onekama process were that the alleys should transfer to the county road commission along with streets. But an argument could be made that streets could/should be separated from alleys and sidewalks. Their existence is generally unique to more densely populated areas, which is not where a rural county road commission such as Manistee generally has responsibility. The maintenance of alleys and sidewalks will be of greater significance to the townships than the county road commissions. CRC recommends that the leg-

islature provide greater clarity to whether townships are authorized to maintain alleys assumed from villages.

Fix Vote Requirements

Reform of the vote requirements could happen in several ways. The following are several paths that could be taken to alter the thresholds for approving disincorporation. It may be possible to piece together these recommendations, but each should be judged independent.

dently to assess whether it would improve the process.

Is 2/3 Vote Necessary?

It is not clear why a super-majority vote should be required to disincorporate a village, when one considers that a simple majority vote of the electorate is required in a statewide vote to amend the state constitution; in each government considering merger by incorporating as a new city; and in most other instances where the structure of government would be changed. One recommendation would be to do away with the super-majority vote requirement.

A counter argument is that the super-majority vote requirement and allowing a separate path to the ballot through the commission process is a projection against frivolous petitions that garner 15 percent of the village electorate on petitions, but are not supported by the elected leaders nor do they have the general support of the residents. In 2010, separate petitions were submitted calling for votes on disincorporation of the Village of Sand Lake in Kent County and the Village of Emmett in St. Clair County. Neither community went through the com-

mission process, but instead went right to the vote. Each required a two-thirds vote for approval and neither received it. In cases like this, the only expense for the governments is that of conducting the election.

Require Commission Process

The commission process succeeded in laying out a

plan for merging the two governments together in Onekama and educating the electorate about the ramifications of their votes. CRC recommends above that all proposed mergers should be required to go through a commission process such as is provided for in the GLVA. This requirement would eliminate the need for supermajority votes on questions of mergers. After a plan is created, approval would require only a simple majority.

If it is decided to maintain two paths to get to a question of village disincorporation to the ballot, then the GLVA should be amended to eliminate any possibilities of a second swipe at the super-majority requirement for voter approval.

Remove Chance for Second Swipe at 2/3 Vote

If it is decided to maintain two paths to get to a question of village disincorporation to the ballot, then the GLVA should be amended to eliminate any possibilities of a second swipe at the super-majority requirement for voter approval. As described above, the law currently says that (1) a super-majority vote is required if the question is taken directly to the voters; (2) a simple majority is required if a disincorporation commission is formed and the plan produced by that commission ratified by both the village and the township; and (3) the super-majority requirement is again in place if the plan is not ratified.

It is recommended that, at a minimum, the second possibility of a super-majority requirement should be removed. Once members are appointed to a commission, that body is convened, and time and resources are committed to producing a quality plan, the village and township governments should not have a formal role to play in submitting the plan and the question of disincorporation to the electors. It is recommended that the plan produced by the dis-

incorporation commission should be submitted directly to the voters for a simple majority vote. The

village and township governments can and should provide council to the commission (see recommendations above regarding a formal role), but the plan produced by the commission should be final. If provisions of the disincorporation plan are adverse to either governmental entity, that body can communicate this to residents/voters in the form of a resolution or other political action.

Clarify Vote Requirement

The language in the GLVA related to the 2/3 vote requirement does not make it clear what bodies of

electorate are to vote; whether the vote should oc-

cur as a single township, or the village and balance of the township should vote concurrently but the votes counted separately.

The language in the GLVA related to the 2/3 vote requirement does not make it clear what bodies of electorate are to vote; whether the vote should occur as a single township, or the village and balance of the township should vote con-

currently but the votes

counted separately.

The wording in Section 18a is read in the context of a few facts:

- 1) Only village residents may sign petitions seeking a vote on the question of disincorporation.
- 2) Only village residents were asked to vote on questions of disincorporation prior to the 1998 amendments to the GLVA.
- 3) Section 23(h), which was added to the GLVA when Section 18a was altered, clearly calls for separate canvassing of the vote inside the village and in the balance of the township.

74.18a Disincorporation of village; procedure.

(4) By not more than 14 days after the petition is filed, the township clerk shall verify the signatures and determine the sufficiency of the petition. Unless the council proceeds under sections 23 to 23i of this chapter, if the clerk determines that the petition is sufficient, the question of the disincorporation of the village shall appear on the ballot at the next general or special election to be held in the village, subject to the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992. The township clerk shall prepare the ballot language, in substantially the following form:

"Shall	incor	poration	of the vi	llage of	be vacated?	
() Yes					
	.					
) No".					

- (6) The clerk and election officials of each township into which the village is proposed to be disincorporated shall conduct the election on the proposed disincorporation in the village and the portions of the township outside the boundaries of the village, <u>respectively</u>.
- (8) The results of the election on the proposed disincorporation shall be canvassed by the board of canvassers of the village and the board of canvassers of each township in which the village is located.
- (9) The disincorporation of the village shall take place under this section only if 2/3 of the electors voting on the questions vote "yes". If the disincorporation is approved, the council shall immediately cause a transcript of all the proceedings in the case to be certified to both of the following:
 - (a) The county clerk of the county in which the village or the principal part of the village is located.
 - (b) The secretary of state.

74.23h Disincorporation; approval by electors.

- (1) The proposed disincorporation is approved by the electors and shall take place pursuant to the plan adopted under section 23e of this chapter only if a majority of each of the following votes cast on the question of the proposed disincorporation are in favor of the disincorporation:
 - (a) The votes cast by electors of the village.
 - (b) The votes cast by the electors of each township into which the village is proposed to be disincorporated, counted separately, and excluding votes cast by residents of the village.
- (2) Unless the proposed disincorporation is approved as provided in subsection (1), the proposed disincorporation pursuant to a plan adopted under section 23e of this chapter is disapproved by the electors and the village shall not be disincorporated pursuant to the plan.

the disincorporation plan

the language in the GLVA

was interpreted by state

officials to require two-

thirds consent of the elec-

tors in the township as a

whole.

4) The village residents would have their votes counted separately in other forms of merger, such as if another governmental entity sought to annex a village of Onekama's size.

The understanding of the vote requirements is further complicated by wording in Section 18a of the GLVA. Paragraph 4 refers specifically to scheduling the election "at the next general or special election to be held in the village." This would suggest the importance of the village as a voting entity in this process. Paragraph 6 says that the township clerk(s) "shall conduct the election" - which suggests a

single event - but then goes on to say that the election is "in the village and the portions of the township outside the boundaries of the village, respectively" - which suggests separate votes occurring concurrently. Paragraph 8 begins by saying "The results of the election," which suggests that multiple voting outcomes are to be canvassed. Finally, paragraph 9 says that disincorporation is approved "only if 2/3 of the electors voting on the questions vote 'yes'." Again, that would suggest that multiple votes are to be counted.

The wording in section 18a to determine voter approval under a 2/3 vote requirement stands in contrast to the wording in Section 23h to determine voter approval under a simple majority requirement.

There is some logic in asking village residents spe-

cifically if they wish for their village government to remain in existence. Nonetheless, to read the plural discussion of votes and voting outcomes to be canvassed as suggesting the requirement for separate village and township elections is to ignore the fact that multiple votes are necessary for Michigan villages that are parts of multiple townships. Michigan has 53 villages whose geographic area resides in multiple townships. The

language in these sections was drafted to accommodate those villages that are located in more than one township. For those villages, the residents in each township must vote (and have their votes counted) separately on matters of village disincorporation.

Once Onekama Village opted not to ratify the disincorporation plan the language in the GLVA was interpreted by state officials to require two-thirds consent of the electors in the township as a whole.

If a 2/3 vote requirement continues to be a necessity (see recommendation above/below), the language in Section 18a should be made more clear.

Conclusion

Onekama Township and the Village of Onekama were not successful in merging the two governments by disincorporating the village, but their efforts provide valuable lessons for those that follow and a first go at using the process provided for in the General Law Village Act.

Without formal exit polling to know exactly why Onekama residents voted the way they did, the community conversation would seem to suggest that their decisions rested on a few key facets of the disincorporation plan. It was important that the Manistee County Road Commission would be able to take care of the village streets at least as well as the village had been able to do so. The speed of snow removal was of utmost importance, something that village residents could be willing to pay extra to continue.

The transfer of stewardship of the Village assets to the Township was seen as a selling point for disincorporation by some. Because residents from throughout the community use the Village assets, and the Township has a larger tax base use to care for those assets, these people saw merger as a move toward equally distributing the burden across the community. However, many saw this transfer as an uncompensated loss of equity for Village residents. When the Village assets were viewed using a private property perspective, these people felt compensation was in order.

The finances of the proposed merger of the two governments was such that the five mills levied by the Village could be eliminated without replacement, at least for the near term (how long would depend on how economic conditions meet or beat assumptions). The plan continued the same level of services for Village residents. Despite this financial windfall, the majority of Village residents still voted against disincorporation of the Village.

Most of the recommendations related to the disincorporation provisions in the General Law Village Act called for clarity in the language. Clarity is needed in petition circulation, the vote requirements, the disposition of roads, the collection of village property taxes, and the effective date of disincorporation. The question of when 2/3 approval is needed to affect disincorporation is a primary issue in need of clarification. It seems odd that the residents of a governmental entity would not be asked specifically about their desire for its continued existence.

CRC also recommends a number of changes that would improve the merger process. It is recommended that all local government mergers use the same commission process that is provided for in the General Law Village Act. Representatives of the local governments should serve on the commission and the formal role for the village and township(s) should end when the representatives are appointed to the commission.

LESSONS FROM THE PROPOSED MERGER OF ONEKAMA VILLAGE WITH ONEKAMA TOWNSHIP

Endnotes

- ¹ American Factfinder, U.S, Census website, Table DP-1 Profile of General Population and Housing Characteristics: 2010, http://factfinder2.census.gov/faces/tableservices/jsf/pages/ productview.xhtml?pid=DEC 10 DP DPDP1&prodType=table.
- ² American Factfinder, U.S. Census website, Table DP-1 Profile of General Population and Housing Characteristics: 2010, http://factfinder2.census.gov/faces/tableservices/jsf/pages/ productview.xhtml?pid=DEC 10 DP DPDP1&prodType=table.
- ³ CRC Report #372, The Costs, Benefits, and Alternatives for Consolidating the Onekama Governments, October 2011, www.crcmich.org/PUBLICAT/2010s/2011/rpt372.html.
- 4 MCL 74.18a (9).
- ⁵ MCL 74.23a .23i.
- 6 MCL 74.23b
- MCL 74.23g(2b) http://legislature.mi.gov/doc.aspx?mcl-74-23g
- 8 http://legislature.mi.gov/doc.aspx?mcl-Act-296-of-1969.
- 9 MCL 74.23(a)(3)
- 10 MCL 74.23f
- ¹¹ Michigan Election Law provides four dates in a calendar year for the conduct of elections the fourth Tuesday in February; the first Tuesday after the first Monday in May; the first Tuesday after the first Monday in November. PA 116 of 1954, MCL 168.1 .992.
- 12 MCL 74.23c(2)
- 13 HB 5437 of 1998
- 14 MCL 74.23e(2)
- 15 MCL 247.851